

REPRESENTATION BY CAGE IN RESPECT OF OXFORDSHIRE COUNTY COUNCIL'S MINERALS & WASTE PLAN.

Part 1 – Respondent Details. Section 1(a) Completed – see text below for Organisation description; 1(b) Completed; 1(c) Completed.

CAGE, which stands for Communities Against Gravel Extraction, was set up by Cholsey Parish Council and Wallingford Town Council in 2011. These two councils are the elected representatives of some 10,000 residents. CAGE represents the views of these two councils as well as the majority of neighbouring parish councils: including Aston Tirrold, Aston Upthorpe, Brightwell-cum-Sotwell, North Moreton and Moulsoford. The parish council of South Moreton has not made its views known. In addition, the spokesperson of the Cholsey and Wallingford Heritage Railway has added its name to the list of supporters on the CAGE website. CAGE therefore speaks with a common voice for a large proportion of local residents in opposing the County Council's strategy in selecting a site at Cholsey for mineral extraction.

CAGE was established to raise local awareness of the County Council's minerals strategy proposal and to produce a reasoned submission which was delivered to the County Council in October 2011 as part of the process in deciding the appropriate strategy. CAGE publicity has led to well over a thousand people registering their support for CAGE's position on the CAGE website (see Appendix 2), as well as an e-Petition signed by 734 residents and a paper petition signed by 1,600 residents opposing the inclusion of the site within the Strategy.

CAGE has no formal membership, just supporters, and has a working party which meets regularly. The working party includes, amongst others, a chairman, treasurer, secretary and representatives of Wallingford Town Council and Cholsey Parish Council. Recent public meetings have been held to inform the local communities, with two on consecutive nights in June 2012 (11th in Cholsey and 12th in Wallingford). Both nights were well attended.

CAGE therefore represents the views of all the councils mentioned above and has in addition well over a thousand individual supporters. In order to ensure that the views being expressed in this Representation actually reflect the views of the constituent parts of CAGE, a leaflet summarising CAGE's arguments was distributed to households in Cholsey Parish and Wallingford in May-June 2012 and was followed up by door-to-door canvassing to gather the names and addresses of those in support and those against the CAGE position. There are well over a thousand responses in support and only a small handful against the CAGE position (some on the grounds of employment possibilities in the gravel industry, but the majority not giving a reason). The leaflet is attached in Appendix 3.

This Representation has been prepared by CAGE with legal, planning and minerals advice provided by experts. CAGE is therefore a representative body and in joining together under one name it has complied with the County Council's request (see paragraph 2.3 of the Guidance notes on making a Representation about like-thinking groups and individuals joining together) to put forward a common argument.

Part 2 – Representation

Question 2(a) The Challenge is brought to the inclusion of the site at Cholsey in policy M3 and paragraph 7.7 of the Strategy. All reference to Cholsey as a potential site should be excluded from the strategy. The site has been identified in the Strategy with such precision, that it takes the situation beyond a position where it can be considered merely to be a potential area allocation, the acceptability of which can be considered further at the time when a planning application is made, to a position where the strategy itself governs the allocation. As such that brings into question all the Common Core policies for minerals and waste in section 6 of the strategy where conflict would arise in respect of the allocation of the location at Cholsey. As is clear from the submission made by CAGE in October 2011 the site as identified and allocated offends against policy C1, C2, C3, C4, C5, C6, C7, C8, C9 and also Policy M3 and M6. Accordingly and given the limitation imposed on the potential developable area by the boundaries of the two Areas

of Outstanding Beauty (AONB), as well as other existing limitations, the adoption of the site within the Strategy predetermines the acceptability of any subsequent planning application. To include a potential site area which demonstrably fails against the determinative planning policy is inappropriate and incoherent. See Appendix 27 for Ordnance Survey map.

Further the Strategy fails to provide any basis against which the adverse consequences of the proposed use could be measured in terms of the effect on the heritage railway with its tourist benefits as well as on the local economy and tourism which is protected by local plan policy.

Question 2(b) both boxes ticked NO.

Question 2(c) all boxes ticked (i.e. NOT positively prepared, justified, effective or consistent with national policy)

Question 2(d) why the strategy is not legally compliant and is unsound.

1. In accordance with paragraph 2.1 of the Guidance Form CAGE refers to the following documents as being relevant to its Representation. By referring to the various documents CAGE is incorporating them into this Representation and will refer to them as necessary during the Examination in Public. This list is believed to be complete.
 - (i) All Proposed Submission Documents listed by OCC.
 - (ii) Previous OCC Consultation Documents identified by the Council but not listed within the Submission Documents.
 - (iii) Relevant OCC Committee and Background reports, including Heritage Assets and Archaeology, revised April 2012; Aggregates Supply Background Paper; Members' Mineral Working Group Papers September 2010; Members' Mineral Working Group Papers January

2011; Scrutiny Committee Report 27 February 2012; Cabinet Committee report 13 March 2012; full Council report 3 April; Statement of Community Involvement 2007

- (iv) OCC Site Nomination Forms;
- (v) OCC Minerals Sites Selection Methodology
- (vi) All documents listed in the Index to the Appendices to the CAGE Representation
- (vii) 1989 DK Symes Drilling Survey at New Barn Farm, Wallingford available in hard copy only, not in electronic form.

2. In accordance with paragraph 2.2 of the Guidance Form CAGE has made it clear that the Plan needs to be changed by removing the sites at Cholsey as potential mineral extraction sites during the lifetime of the current proposed Oxfordshire Minerals and Waste Plan – Minerals and Waste Core Strategy. The evidential basis supporting that change is set out in the representations already sent to the Council in the documents listed in this paragraph and will be supplemented by the contents of this Representation drawing upon the questions of legal compliance and soundness. The documents already submitted and incorporated into this Representation (and attached as Appendices numbered 1-26) are described in the Index to the Appendices:

1. The Submission by CAGE dated October 2011 (also available at www.cagegravel.org.uk)
2. CAGE supporters: Canvassing exercise (June-July 2012) and petitions (2011) in support of the CAGE position (the CAGE database itself and the canvassing spread sheets plus originals are available for inspection but not included here for Data Protection reasons)
3. Leaflet distributed by CAGE in May 2012 to raise awareness and seek support for its position (NB this was the basis for the canvassing of residents to see who would support CAGE by providing names and home or email addresses)
4. CAGE correspondence with OCC about Submission

- a. Hedges Solicitors letter 31 October 2011 to OCC
- b. OCC Standards Committee Initial Assessment Panel Decision of 29 November 2011 re perceived bias by Cllr Lindsay-Gale.
- c. Hedges Solicitors email 16 December 2011 to Peter Clark, OCC Monitoring Officer, responding to 4(b)
- d. OCC letter 12 January 2012
5. Hedges email 31 October 2011 to OCC (Peter Day) enclosing a printout of 670 comments on the CAGE website (none in favour), petition signed by 1,600 people against the proposal
6. Cholsey resident's complaint via Hedges Solicitors about perceived bias by Cllr Lindsay-Gale
 - a. Resident's letter 25 March 2012 to Hedges for forwarding to OCC
 - b. Hedges cover email of 26 March 2012 to OCC forwarding 4a.
 - c. OCC Standards Committee Initial Assessment Panel Decision of 18 May 2012
7. North Wessex Downs AONB letter dated 29 March 2012 to OCC
8. Chilterns AONB letter dated 2 April to OCC
9. CAGE Minerals Planning Consultant Suzi Coyne comment on OCC responses (Table of objections and OCC responses thereto)
10. Lord Bradshaw letter dated 26 October 2011 to OCC on rail transportation of minerals (repeated in letter to Ed Vaizey MP who incorporated it with his letter to OCC on 22 June 2012 see below)
11. Geological Report by CJR Braithwaite, Chartered Geologist, for CAGE dated January 2012
12. Ed Vaizey MP letters dated (a) 15 May 2012 and (c) 22 June 2012 to OCC, and OCC responses dated (b) 29 May 2012 and [response to June letter not available to CAGE at time of preparation of Representation] (d) Second letter from Lord Bradshaw to Ed Vaizey MP
13. Extract from OCC report: CABINET – 13 MARCH 2011
 OXFORDSHIRE MINERALS AND WASTE PLAN: MINERALS AND WASTE CORE STRATEGY – PROPOSED SUBMISSION DOCUMENT Report by Deputy Director for Environment & Economy - Growth & Infrastructure
14. Email exchange between OCC's Lois Partridge and CAGE's Adrian Hatt of Hedges Solicitors in respect of AONBs and Gravel Extraction
15. Geophysical Surveys for CAGE (a) Report No 2012/10 by Abingdon Archaeological Geophysics, 12 July 2012, Roger Ainslie, with (b) Key to Map. Possible evidence of 3-hectare Romano-British settlement NB Large file 16MB, so hard copy available.

16. An Archaeological Desk-Based Assessment of Proposed Oxfordshire Gravel Extraction Sites SG 33, SG57 and SG60 between Cholsey and Wallingford, Oxfordshire, 11 July 2012, Keevill: reference to possibility of *Grim's Ditch* on the site
 17. Comparison Table of All Sites originally identified by OCC in South Oxfordshire – analysis by CAGE Minerals Planning Consultant (this is also Appendix I of the CAGE Submission October 2011)
 18. Report by Cholsey and Wallingford Railway (“Bunk” line Heritage Railway) submitted to OCC during Consultation October 2011
 19. Map of AONBs in relation to Cholsey: see also CAGE Submission October 2011 p10
 20. SODC Map of Archaeological Restraints: see CAGE Submission October 2011 p19
 21. Oxfordshire County Council: Strategic Landscape Assessment of potential minerals working at Cholsey and Caversham: impacts on Protected Landscapes. February 2012. Relevant pages only.
 22. OCC background papers on heritage and archaeology (relevant pages only):
 - a. Background Paper: Heritage Assets and Archaeology, revised April 2012 Oxfordshire Minerals and Waste Plan: Minerals and Waste Core Strategy - Background Paper revised April 2012: Heritage Assets and Archaeology
 - b. Background Paper: Development of Minerals Planning Strategy, revised April 2012 (table extract from p28) – “no archaeological constraints”
 23. OCC Consultations October 2011 (relevant pages):
 - a. full lists of comments (there are hundreds of pages so only the source on the OCC website is provided) plus
 - b. sample comment from Cholsey resident, hydrogeologist Philippa Fowler, and
 - c. sample pages from OCC Summary Comments and OCC responses to consultation
 24. Environment Agency report to OCC, 31 October 2011
 25. Comment from gravel operators that nominating one site in S Oxfordshire is inadequate and inflexible, plus OCC response
 26. DK Symes Drilling Survey 1989 - currently only available in hard copy to be delivered by hand to OCC.
 27. Ordnance Survey Map of the proposed gravel extraction area
3. CAGE has asked its Minerals Planning Consultant to comment on the Council’s response to the matters raised within her area of expertise and attached as

Appendix 9 is a table setting out the issue and the Council's response thereto. CAGE relies on that table as part of its evidential base.

4. It is clear from the foregoing that CAGE has made a strong case in opposing the identification and allocation of the sites at Cholsey for mineral extraction for a number of relevant, pertinent and weighty reasons. CAGE has engaged with the County Council in seeking to ascertain if any of the reasons raised by it against the identification and allocation of the site as proposed at Cholsey could be dealt with and therefore withdrawn from consideration by the Inspector at the Examination in Public (the EIP). Despite such efforts the County Council has failed to deal with the matters raised and all the issues raised by CAGE remain for consideration by the Inspector at the EIP.
5. The EIP, in accordance with the relevant National Guidance which has been restated most recently in paragraph 182 of the National Planning Policy Framework 2012 (the Framework), will examine the Plan to ensure that it is both legal and sound. There is an obvious overlap between the two elements, for example compliance with national policy falls to be considered in both and accordingly these Representations will deal with the issues to be considered and direct the Inspector to where the failure lies rather than following a strict legal/soundness division which may lead to unnecessary duplication and repetition.
6. The first point to note is that the approach described in the Council's guidance form in sections 4 and 5 is not phrased in the same way as is now set out in paragraph 182 of the Framework. These Representations will therefore take the approach as indicated by the Framework as being the most appropriate.
7. The examination by the independent Inspector is to see if the Plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements and to decide if it is sound. To be sound the Plan needs to be:

- i. **Positively Prepared** – the plan needs to have been prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where reasonable to do so and consistent with achieving sustainable development.
- ii. **Justified** – the plan should be the most appropriate strategy when considered against reasonable alternatives based on proportionate evidence.
- iii. **Effective** – the plan should be deliverable over its period and based on effective joint working on cross boundary strategic priorities.
- iv. **Consistent with national policy** – this requires the plan to enable the delivery of sustainable development in accordance with the policies in the Framework.

General matters

8. Before turning to detail specific points there are a number of general matters to address:
 - Application of the National Planning Policy Framework 2012
 - Quality of gravel
 - Inconsistency in reviewing policies vis-a-vis the Framework
 - Lack of local input into development decisions
 - Competitive economy
 - Deliverability
 - Tourism

Application of the National Planning Policy Framework 2012

9. There is no obvious attempt by the Council to meet its Duty to Cooperate as envisaged in the Framework. The Framework in section 13 at paragraph 146 indicates the importance of cooperating with neighbours in respect of the

provision of minerals. The absence of such an approach fails to meet the requirements and renders the Plan not in legal compliance and also unsound. Paragraph 5.4 of the Guidance notes makes it clear that the Plan should “be based on effective joint working on cross boundary strategic priorities” but it does not explain how that is achieved. In that respect the inherently poor quality of the mineral resource at Cholsey is highly material as even if it is worked it would be required to be supplemented for use in most building activities. It is not therefore a high quality limited resource that needs to be worked due to its inherent properties. Furthermore, it is not evident that the Council has given proper consideration to the letter dated 26 October 2011 from Lord Bradshaw, an expert on national rail transportation and Wallingford resident, in which he stated: “The Minerals Planning Strategy is defective because it does not examine the case for importing minerals by rail from sources outside the County. As far as I have been able to establish no discussions have taken place with major mineral suppliers about the relevant net costs of supplying minerals through existing or new railheads...” (Appendix 10)

Quality of gravel

10. CAGE has provided evidence to demonstrate that the quality of the gravel at the Cholsey sites is poor (see section 4.3 and 4.4 October 2011 submission). The point was also made that this means that the range of building applications that the material has is limited and accordingly higher quality aggregate would still need to be imported from elsewhere to meet the demands of the South Oxfordshire market. Research into the quality of the sand and gravel in Cholsey was carried out on behalf of CAGE by a hydrogeologist and this informed the CAGE Submission in October 2011(see Comment No 966 at Appendix 23). CAGE has since been provided with a further report produced in January 2012 by a local chartered geologist, CJR Braithwaite, based on the British Geological

Survey borehole logs, which concurs with the view that the gravel is of poor quality (see Appendix 11).

11. The Council has not chosen to respond to the point about importation but, in respect of a different point about the quality of the gravel made by CAGE, relied on the fact that there was industry support for the working of material in Cholsey as an indication that the material was of a suitable quality. It is no part of CAGE's case to suggest that the mineral would not be worked if permitted or that it was not saleable. The point actually being made is that the expectation set out in paragraph 4.21 of the Plan that the material is needed to "enable continued local supply of sand and gravel to markets in southern Oxfordshire" will not be met from this site. As the gravel would only be suitable for limited uses, which would exclude structural concrete as it does not meet the strength requirements unless mixed with other imported material, additional aggregates would have to be sourced to meet the needs.

12. In the light of that representation it would have been appropriate for the Council to have carried out further investigation in order to assess whether other potential deposits would be more suitable. That is what is required to meet the ambition of enabling a continued local supply of sand and gravel to markets in South Oxfordshire.

13. The Plan is therefore unsound because as currently drafted it would not deliver a continued local supply of sand and gravel to markets in South Oxfordshire.

Inconsistency in reviewing policies vis-a-vis the Framework

14. A further general way that the Plan can be declared neither in legal compliance or sound is the failure of the plan to be consistent with national policy. The national policy that applies is that contained within the Framework and the requirement as set out in the last bullet point in respect of Soundness is that the plan has to be in

accordance with the Framework itself. The Plan cannot therefore be declared compliant and sound until it has been assessed against the provisions of the Framework itself. The Council has not carried out any such exercise despite the fact that the process leading to the adoption of the Plan is still ongoing and the Framework governs that process.

15. CAGE acknowledges that in respect of most of the “Background Papers” the Council indicates that the Paper has been “partially” updated to reflect the new guidance but none claim to have been fully updated. There are three points to note all of which question the ability of the Plan to be found legally compliant and sound. The first is that there is no obvious change arising from the “partial” update to indicate that the new guidance has been followed. Secondly, whilst recognising the relevance of and need to carry out a partial review, the partial review fails to do the full and proper job expected under the Framework and as such must be found wanting. Thirdly, in respect of important aspects no review, partial or otherwise has been undertaken and that must lead to a question mark as to whether it is consistent with national policy. The third category applies to the Development of the Minerals Strategy, which leads directly to the adoption of the Cholsey area as a replacement to “Sutton Courtenay when reserves there become exhausted”. It applies to the “Provision of Aggregates Supply”; the “Preliminary Assessment of Minerals Site Nominations” despite the fact that it had been revised as recently as February 2012 which was a month before the publication of the Framework; the Strategic Landscape Assessment of the Cholsey area, and the Habitat Assessments.

Lack of local input into development decisions

16. The Framework itself is built on 12 Core Planning Principles as set out in paragraph 17. All are relevant to this case but particular regard must be had to the reinforcement of the importance of local input into development decisions. There are significant constraints applicable to the boundaries of the site. These include

the physical limitations arising from the river, the road network, the railway and new bridge, the urban areas with residential houses bordering the site, the presence of a listed building within the site and another substantial house within the site, as well as the access road to another listed building running through the site. Thus, given all these constraints, the identification of the Cholsey area between the defined boundaries of the two AONBs is a de facto identification of the site itself.

17. The Framework indicates that the first of the twelve core principles is that the approach should be genuinely plan-led which empowers local people to shape their future and their surroundings. The area delineated within the Plan fills the space between Cholsey and Wallingford (including Winterbrook which is part of Cholsey Parish but contiguous with housing in Wallingford) and will create a linked developed area between the two. The total population of these two urban areas is 10,000 at present and expected to rise to 15,000 by 2020 as there are plans for substantial housing developments in the area. There is no scope within the delineated area to move the site to prevent that from happening. As such the views of those local people living in the area should be given great weight when they are based on proper planning considerations. The protection of landscape, heritage assets, health and social well-being, which are all listed in the 12 Core Principles, all support that. It is significant that if the site is assessed against the policy listed in section 6 all aspects will be infringed. It is wrong to adopt a strategy to include a site where the site is bound to fail against any reasonable assessment against identified policies and it is accordingly unsound.

Competitive economy

18. The Framework also requires that a “strong competitive economy” is to be built. The current Plan stifles rather than promotes such a competitive approach. This point was made in the Submission by CAGE in October 2011, and CAGE is

heartened to see that the Framework that was published some months later adopts a similar approach to the issue of competition.

19. Paragraph 145 of the Framework requires that in planning for a steady and adequate supply of aggregate material, mineral planning authorities should ensure that large landbanks bound up in a few sites do not stifle competition. The effect of the proposed strategy would be to put production of at least 50% of the required mineral supply in the hands of one operator. CAGE questions whether this was appropriate given the significant challenge that this presented for one operator in terms of market share. The Council's response was to indicate that there were five areas within which possible sites have been nominated by a number of different operators.

20. That response does not address the essential point, namely the point referred to in the Framework at paragraph 145 about stifling competition which is now a clear requirement to be taken into account. Although such questions have always been material to consider, the difference now is that the Framework makes it a formal requirement. There is no evidence to suggest that the Council has done that or that the partial review of the work that has been carried out has achieved what is required.

21. The facts that substantiate CAGE's concern that the strategy as currently drafted would stifle competition are evident from Table 1 on page 30 of the Submission Core Strategy and Table 5 of the Background Paper; Provision of Aggregates Supply (said not to be an updated paper following the Framework publication). The Council states that there are five proposed sand and gravel areas in the strategy. However as of 2020-2021 there would only be four areas and at that point 54% of the supply proposed would be from one operator. As Table 5 of the Aggregates Supply Background Paper makes clear 34% would be from the Lower Windrush Valley and 20% from Cholsey. The footnote explains that this assumes only one quarry in the lower Windrush Valley by 2020 by which time the reserves

at Stonehenge Farm are expected to be exhausted. This one remaining quarry is the one operated by the same operator as has been proposed for Cholsey. Therefore 54% of the supply would be in the hands of one operator.

22. Given that situation, it is not particularly important how many operators make up the remaining slice of the pie as the majority is controlled by one operator. CAGE believes however that in any event the rest of the pie would remain in the hands of just two operators. The proposed Strategy is unsound as it would have the potential to lead to a stifling of competition contrary to the guidance contained in the Framework, guidance that the Council does not seem to have reacted to.

Deliverability

23. The adoption of the Plan to incorporate the Cholsey site is to accept that it is correct to include Cholsey within this Plan on the basis that it will come forward when another site runs out and that such an approach is sound. It is on that basis that questions relating to the Plan being “Effective” must be assessed. The requirement is for it to be deliverable during the life of the Plan. There can be no such finding in respect of this site. There can be no guarantee of such circumstances and in any event the Cholsey site does not share sufficient similarities for a plan policy to be adopted in such a way. The evidence suggests that the material at Cholsey is so different, not to mention poor, that it cannot realistically be considered as a replacement for the other site and will not therefore come forward on that basis. The Council’s view that the mineral developers are keen to work the resource is not an answer to that and does not support the policy basis. In addition, it should be noted that the requirement for delivery in the Guidance notes at paragraph 5.4 has been interpreted as being related to concerns about regulatory or national planning barriers, which is different to the approach set out in the Framework.

24. CAGE has submitted evidence to demonstrate that the likely level of mineral reserve, after taking into account all the constraints that affect the Cholsey location, is less than originally envisaged. This reduced net reserve and the anticipated need for investment in a processing plant and site infrastructure, coupled with the poor quality of the material, would affect the economic return from the site. In light of these economics it is likely that the proposed operators (Smiths Bletchington) will want to work their existing and significant reserves in the Lower Windrush Valley first and then to transfer their processing plant to Cholsey. Those reserves are likely to last in excess of 30 years and therefore Cholsey is very unlikely to become operational by 2020 or in fact within the period of this Plan. As such it should be regarded as being unsound to the extent that it includes elements that are not deliverable within the timescale.
25. CAGE made that point to the Council, but the Council only chose to respond to the first part regarding the reduced economic viability of the site. In so doing the Council expressed the view that it believed that there were sufficient workable reserves and that there was industry support for the working of minerals which was taken to indicate that the mineral was of a suitable quality to work.
26. That Council response misunderstood the point that was being made on behalf of CAGE. It was never argued that there was insufficient material to work, but rather that, given the stark economics of mineral working, start up costs, and the fact that the operator had sufficient reserves elsewhere to work, there was a serious doubt that Cholsey would come on stream within the time estimate and accordingly the Strategy could not be delivered.
27. As a result the Strategy is unsound because the selection of just one new area of supply does not have any flexibility to provide for the certainty of mineral supply that is actually required.

Tourism

28. The absence of reference to the effects of the potential mineral extraction on tourism is a major flaw for any proposal in this area. The Council acknowledges the visual impact on the heritage resource of the railway and would presumably accept the same for other tourist advantages such as the Dame Agatha Christie Trail, the Thames Path on the proposed site SG60 and other local footpaths but it does not take them into account either as part of the site selection or provide a mechanism by which they can be taken into account. Furthermore, the Council has not answered concerns raised by CAGE in its Submission of October 2011 (section 6.3) about the potential structural impact on the heritage railway, also supported by the railway operators themselves, from dewatering beneath the railway track along the entire length of proposed sites SG33 and SG57 (See Appendix 18). The comments made by CAGE in sections 6 and 7 of the October submission stand.

Inadequate Consultation

29. CAGE maintains its stance that the Plan is unsound on the basis of the inadequate consultation as set out in the letter of the 31st October 2011 from Hedges to OCC (Appendix 4a). The County Council response confirms the events and supports the stance adopted by CAGE. The Council's approach meant, as set out in the CAGE letter, that once the Cholsey location was removed in 2010, many from the Cholsey area would have taken no further part in the process. It was merely fortuitous that the reintroduction of the Cholsey area was spotted by local residents, and accordingly any opportunity to influence the Council's proposals was lost until the start of the 2011 exercise, by which time decisions had been made. The guidance available at the time, which is consistent with the desire in the Framework for local people to influence decision making to guide how the area in which they live is developed, has not been complied with and that renders the Plan not legally compliant.

30. The Council has not followed its own principles as set out in the Statement of Community Involvement 2007. Paragraph 4.3 of the Guidance on Making Representations says that the Council's "key principles of consultation are: Keep an open mind and never decide the outcome before a consultation exercise; ensure all relevant parties are consulted, that they are as representative as possible and are well informed of the parameters surrounding the consultation; ensure the consultation process is conducted openly and honestly; ensure that all views expressed are taken into account when decisions are made; and communicate these decisions (and how they have been influenced by consultations) widely to the public and to those who took part in the process."
31. The consultation records demonstrate that all of the objections raised by local residents and their representatives were rejected, dismissed or in effect ignored by using the stratagem that the current phase was strategic and that since the areas were not site-specific these issues would be left to the planning stage (see Appendix 23). Written complaints about the Council's proposal and indications of support for the CAGE Submission of October 2011 were made by hundreds of individual residents, by CAGE itself, by Wallingford Town Council and Cholsey Parish Council. None of the complaints or objections has been accepted. Council officers implied that the authorities representing the AONBs adjacent to the Cholsey site had no objection to the proposed site whereas in fact they do have objections. (See Appendices 7 and 8).
32. Relevant representative parties have not been kept informed or consulted in good time. The news in February 2011 that Cholsey was the only designated gravel extraction "area" in South Oxfordshire came as a surprise to the local councils, because they had not been informed. The local MP Ed Vaizey asked the Council, in vain, for a copy of the letters that the Council should have sent to Wallingford Town Council and Cholsey Parish Council about the change in the Core Strategy site locations, namely that Cholsey was now the sole designated area in place of over half a dozen others that had been designated previously. (See Appendix 12).

Failure to comply with the Statement of Community Involvement 2007 renders the Plan not legally compliant.

Inadequate Environmental Assessment

33. The issue here revolves around the extent of the assessment required in relation to a given area. CAGE accepts that if Cholsey were part of a wider area, largely unconstrained as to where the mineral extraction could take place, then the assessment process undertaken by the Council might be deemed to be appropriate. It was clearly the case in relation to other identified areas in the Plan that a strategic level assessment sufficed.
34. The position is different where the area selected is in effect the only realistic area available for the extraction of the minerals due to the extent of the resource and the constraints operating around it. The situation in Cholsey is such that the identification within the strategy of the Plan is a de facto identification of the area of the site itself, sitting as it does between the urban areas to the north and south, and the railway, road and river and within the narrow salient between the two AONBs. It is hard to see how any other view can be taken.
35. As such it would mean that the inclusion of the site, even though no environmental assessment of the site had been undertaken in any detail, would come forward to be judged under the Plan. As such it would be deemed to be suitable within the Plan and would lead to one of two conclusions. Either it would be bound to fail against the section 6 policy, which means it should not have been included in the Plan at all; to include a site that is bound to fail against detailed assessment must be unsound. Or the view would be taken that the inclusion gives it a deemed acceptance even though it has not been looked at. The impact of mineral extraction on the two AONBs alone, especially given the fact that views from the AONBs would be from a close and elevated position, would render the development unacceptable as the bodies responsible for those areas have declared.

Other assessments that would normally be undertaken in such a site-specific location would include the proximity of sensitive receptors such as the Winterbrook Care Home, the Mongewell Park Nursery School, which caters for 134 infants, the Wallingford Community Hospital, the planned cycle route, and the proposed new school which is part of the Winterbrook housing development. All these are close to and downwind of the proposed gravel extraction sites SG57 and SG33 and its access routes.

36. The failure to carry out a proper environmental assessment renders the Plan not legally compliant and unsound.

Failure to consider sites other than those advanced by operators or landowners

37. The Council's response has confirmed the accuracy of what CAGE set out in terms of the site identification process. The Framework approach has reinforced the need for such development decisions to be made on the basis of information that is both objective and up to date. That requires an assessment procedure that is open, consistent, and objective and aimed at obtaining the information sufficient to provide a proper evidential basis. Basing a strategy on the input of operators and landowners alone is helpful in indicating locations where operators and landowners may wish to win the minerals, but it does not mean that the best or most appropriate locations will come forward, and it certainly removes any concept of objectivity.
38. CAGE has made the point that the selection of the new area for South Oxfordshire has not been determined by a robust and independent analysis, for example based on the determination of the reserves, and the subsequent assessment of the constraints relevant to those locations. Rather the reliance on Industry nominated sites has avoided any such objective approach. The Council has not responded to that point specifically.

39. CAGE does not claim that the Industry voice is irrelevant, but rather that the assessment process should be based on an independent and impartial assessment of the various locations available. The strategy is therefore unsound because the site selection process has not been informed by a robust and independent methodology.
40. The test of soundness requires that the Plan be justified on the basis of it being “the most appropriate strategy” when considered against the reasonable alternatives. A strategy adopted simply from landowner/operator recommendation cannot be said to be the most appropriate, unless other potential sites are considered, and in any event you cannot rely on landowners or operators to identify the reasonable alternatives against which their sites are to be judged. The Council’s response has confirmed the approach and it confirms the unsoundness of the resultant Plan.

The Appearance of Bias

41. The point remains as set out in Section (iv) of the letter of 31st October 2011 from Hedges Solicitors to OCC. The Council’s response was that an internal investigation resulted in no action. There is no need to find an active breach of the code of conduct to justify a finding that the Plan is unsound on this basis. All that is required is for the view to be taken that the decision to include the Cholsey area is tainted in the way set out in the letter, and that should result in a finding that the Plan is unsound. The way that the matter has been handled is explained in the letter and is supported in the correspondence at Appendices 4a, 4b, 4c, 6a, 6b and 6c.

The CAGE Submission October 2011 – AONB Issues

42. CAGE relies on the contents of its submission of October 2011 in respect of the AONBs and as such does not need to add much more to the evidence already

presented. The proposed locations for potential mineral extraction will be clearly visible from both AONB locations and will have an identifiable and adverse effect upon them (see Appendix 19). Elevated views are available which can be judged on site. Not only will the extraction be readily visible but also any subsequent aftercare of the land. Both the extraction and the aftercare proposals have the potential to damage significantly the attraction of the AONBs. Furthermore, the Council's suggestion that "wetlands" might be formed as a way of reducing the amount of restorative fill required contravenes the nature of the habitats in the two AONBs concerned: the Chilterns and North Wessex Downs do not have "wetlands" and for such "wetlands" to be artificially created in the Cholsey area lying directly between them would change the character of the two AONB areas. Such an approach would also be contrary to the Environment Agency's suggestion about restoration. As such that is contrary to the national policy as set out in the Framework and the proposed Plan is unsound.

43. In addition the bodies responsible for guaranteeing the future good health of the two AONBs have stated their opposition to the proposals, a stance that they continue to maintain. See Appendices 7 and 8 for the letters submitted to the Council.
44. CAGE considers that the contrary impression was given by Council officers to the Growth & Infrastructure Scrutiny Committee meeting on 27th February 2012, (under Policy M3 – Strategy for the location of mineral working). Members were advised that "A landscape assessment of the Cholsey and Caversham areas has been undertaken, in consultation with AONB officers: this assessment has concluded that future mineral workings would not adversely impact on the AONBs." However, at the time of the meeting neither AONBs had received the OCC landscape assessment and so were not in a position to reaffirm positively their view that "...the Cholsey sites are excluded at this stage of the process on the basis of likely impact on the setting of two nationally protected landscapes."

45. The same contrary impression was given by Council officers to OCC Cabinet members and full Council members during their meetings on the 13th March 2012 and the 3rd April 2012 respectively when the Plan was considered. At the start of the full Council meeting on 3rd April, a letter from Chilterns AONB stating their opposition (Appendix 8) was circulated to all Council members. It was neither debated nor discussed prior to the full Council vote, and so for the avoidance of doubt CAGE sought to confirm the position. An OCC document is available entitled “Cabinet – 13 March 2011 Oxfordshire Minerals and Waste Plan: Minerals and Waste Core Strategy – Proposed Submission Document. Report by Deputy Director for Environment & Economy – Growth & Infrastructure”. It acknowledges that concerns were raised by the two AONBs but finds: “...A landscape assessment of the Cholsey and Caversham areas has been undertaken, *in consultation with AONB Officers*: this has concluded that mineral working could be carried out in those areas without adversely impacting on the AONBs...” The italicised emphasis here is provided by CAGE because this phrase implies that the AONB Officers concurred with the OCC view when in fact the AONB letters to the Council state otherwise. The document is signed off by Martin Tugwell as Deputy Director, with contacts directed to Peter Day (see Appendix 13).
46. Prior to the full Council meeting on the 3rd April 2012, Hedges Solicitors representing CAGE asked the OCC official Lois Partridge for information about the position taken by the AONBs, and she replied that in respect of the letters received from the two AONBs, the Council officers’ advice was that these letters did “not introduce any new information to suggest that there is a need to review the basis on which the strategy for mineral working was considered by Cabinet. Accordingly it is officers’ advice that the recommendation before the Council in respect of agenda item 9 remains as drafted: namely that the Council is recommended to approve the Minerals and Waste Core Strategy proposed submission document.” See Appendix 14.
47. This failure to address the serious concerns expressed by the two AONBs, and indeed the understating of such concerns to Councillors at the relevant meetings, means that the proposed plan is unsound.

Historic Environment

48. The first page of the County Council's background paper on Heritage Assets and Archaeology says in paragraph 1.2 that stakeholders will be given an opportunity to check the information to ensure that the Council's knowledge and understanding is up to date and robust. CAGE relies on, without repeating, the contents of Section 5 of its October 2011 Submission in respect of this matter. In such Submission CAGE said that the area was historically important but the County Council has chosen not to research it. At the time of drafting this Representation, additional information is being sought, given that Wallingford is a Saxon town and *burh* and Cholsey is an ancient village. The research undertaken by CAGE has revealed that certain sites elsewhere were rejected owing to the historical interest in the vicinity of them, and accordingly the case for Cholsey was examined to see if a similar level of work had been undertaken in respect of that location.
49. CAGE has not been able to find any similar information produced by the Council in respect of the Cholsey area, and accordingly it has decided to commission some additional work itself to permit a realistic and consistent comparison between locations. CAGE was surprised to find that the Council had not undertaken that work itself, bearing in mind that other locations were rejected on the basis of historical research which the Council considered pertinent. CAGE was further surprised by the Council's assertion that there were "no archaeological constraints" for the Cholsey site – see Table on p28 of the Council's "Background Paper: Development of Minerals Planning Strategy revised April 2012" (Appendix 22b). This is in direct contradiction to the information on areas of archaeological restraint shown on the South Oxfordshire District Council map on p19 of the CAGE Submission of October 2011 and described in detail in Section 5 of the Submission (see Appendix 20). It also contradicts the OCC Background Paper: Heritage Assets and Archaeology, revised April 2012, which states that

SG33 “does lie within an area of archaeological potential and it is possible that archaeological features survive intact beneath the alluvial overburden” (see Appendix 22a). This obvious inconsistency in the Council’s approach to the Cholsey area compared with its approach to other areas is not explained and renders the Plan not legally compliant and unsound.

50. Considering the proposed site in Cholsey in relation to its location close to the nationally important Saxon and medieval Town of Wallingford, the historical importance of the town does not just lie in the detail of the archaeology found within the boundary of the settlement but equally in the setting of the town within the landscape. Starting in 2002, but with detailed field work being undertaken between 2008 and 2010, a joint team from Leicester, Oxford and Exeter Universities, led by Dr Neil Christie, Reader in Archaeology at the University of Leicester, has been undertaking the most detailed study yet of Wallingford. Whilst the field work is essentially complete, the results of the study, together with a review of all earlier studies, are being drawn together in a major report which is due to be published within the next year. Dr Christie has stated “It is clear the importance of Wallingford as one of the best preserved Saxon settlements in Britain is even greater than was previously thought to be the case. That importance is not just as identified by archaeology within the settlement but in the setting of the settlement within its landscape. This is a landscape rich in archaeology of all periods, not just Saxon, and it is essential not to seriously damage the traces of those pasts.” This is likely to be identified and further expanded upon in the monograph when published. Anything which radically impacts upon the landscape in the immediate environs of Wallingford will irrevocably compromise this nationally important Saxon Town. This research, and the lack of any by OCC, makes the Plan legally not compliant and unsound.
51. The final results from the work commissioned by CAGE and referred to in the paragraphs above will be made available when drafting is complete but in the meantime it can be reported that a geophysical survey of fields adjacent to the proposed extraction sites has already revealed the presence of two barrows and

what may be a large Romano-British Settlement (approx 3 ha). LIDAR survey records reveal Celtic field enclosures on the proposed extraction sites. In addition, it has been provisionally reported to CAGE that a registry of metal detector finds notes the discovery of dozens of Roman coins in the area. Ground surveys have not been carried out on the proposed extraction sites because of the anticipated refusal of permissions from the landowners concerned. Archaeologists commissioned by CAGE say that the area is covered in layers of alluvium deposits which would preserve archaeological remains, but would require investigation to establish what else of archaeological or historical importance lies beneath the surface. The archaeologists have reported to CAGE that there is evidence the Scheduled Ancient Monument *Grim's Ditch* extends into the proposed gravel extraction area and, since the site has a high water table, the ditch and associated finds could be well preserved. See Appendices 15 and 16.

52. The historic environment includes Grade II listed buildings, one inside SG33 and one bordering it with its access road running through it. It is to be noted that the listed building within SG33 has been allowed to deteriorate by the landowner. Wallingford is a unique example of a *burh*, and scholars come from afar to study its layout, remains and indeed its setting within the greater area, which includes the proposed extraction site. Failure to give due consideration to these points renders the Plan unsound.

Other Issues raised in the CAGE October 2011 Submission

53. Those important matters raised in sections 4 Geology, 8 Ecology, 10 Impact on Roads and 11.3 Quantity of Reserve all remain to be considered as stated in the Submission. The Council's suggestion that such matters fall to be considered at the detailed planning application stage is not accepted, given the fact that the site selection is akin to a site allocation due to the constraints which exist. For example, the County Council has not responded to the point made by CAGE that the sites are constrained by the fact that there is gas main running through the

SG33 proposed site and that there is a sewer running the length of the heritage railway inside the SG33 and SG57 proposed sites. Furthermore, the County Council has approved a cycle route along the Wallingford Road and within the proposed gravel extraction sites SG33 and SG57. This cycle route would run on the quarry site side of the hedge (see CAGE Submission October 2011 section 6.5) and cross the main road at the Wallingford by-pass. The access point to the mineral working at SG-33 and SG-57 would have to be onto the Wallingford Road and therefore lorries accessing the site would cross the proposed cycle route, creating a conflict with and danger for cyclists. It is proposed by Oxfordshire County Council that from autumn 2012 school bus passes for travel to school in Wallingford will be removed from many Cholsey school children. A safe route will therefore be needed for school children travelling between Cholsey and Wallingford whether by foot or by bicycle.

Inconsistent Use of Distance to Markets Criterion

54. CAGE has made the submission that the main market for sand and gravel in Oxfordshire is the City of Oxford and the central Oxfordshire settlements. Whilst there will be demand for supply in South Oxfordshire, the level of demand cannot be determined by proposed housing growth areas (in Didcot and Wantage) alone, because a significant proportion of the demand for construction materials is also for roads. It should also be noted that a significant proportion of the proposed new housing at Didcot and Wantage is already under way and likely therefore to have been completed by the time the Cholsey sites are proposed to come on line. CAGE's Submission of October 2011 stated that the Cholsey site nomination forms identify a split between Oxford and South Oxfordshire for the destination of the material. On re-examination of the forms it is evident that this is not entirely correct; the forms actually identify "Southern Oxfordshire and Oxford City and North Berkshire (Reading)" as destinations for the mineral. Nevertheless this does not diminish the point that CAGE is making, that a significant proportion of the mineral would be destined for the City of Oxford. The perceived

benefit of selecting the Cholsey sites, because they are closer to the proposed areas of housing growth in South Oxfordshire, is therefore not valid. All of the other potential sand and gravel areas are closer to Oxford than the Cholsey sites, and are not materially further from the South Oxfordshire growth areas, so no clear advantage in “tonne miles to market” can be determined for any of the possible South Oxfordshire sites.

55. The Council response to this point is: “The area should contribute to meeting the need for aggregates in southern Oxfordshire, particularly those market areas which it is closer to than are the sources of supply in west Oxfordshire.”

(Comment ref. 204).

56. The Council’s response in the paragraph above does not address the essential thrust of CAGE’s argument, which is that a criterion for selecting the site has been applied in an erroneous way. CAGE is not arguing that the Cholsey sites would not contribute to meeting the need for aggregates in southern Oxfordshire, rather it is arguing that selection of the site does not have the advantage of minimising the distance minerals need to be transported (Minerals Planning Objective vi), any more than any of the other potential sites in South Oxfordshire.

57. With the Cholsey sites it is in fact not just a question of the additional miles that will be travelled in taking mineral further to the main markets in central Oxfordshire, than would be the case with the other potential south Oxfordshire areas, but because of the lower quality of the gravel as identified earlier in this Representation, there would be a need to transport additional material into the south Oxfordshire area, probably from other counties, to meet the full demand. Several supporters from CAGE who attended the OCC Cabinet meeting on 13 March 2012 heard Cllr Lindsay-Gale, Cabinet Member for Minerals & Waste at the time, say during the discussion that the County Council could not dictate where companies sourced their raw materials. The matter under discussion

concerned commercial companies in Oxfordshire transporting gravel from neighbouring Gloucestershire. There is also the question of the type of restoration that would be necessary for the worked out site, which is explained in more detail at Section 83 below. This would necessitate large volumes of backfill material to be transported mainly from the Oxford area, a requirement that would not apply to the other potential south Oxfordshire areas.

58. It is interesting to note that whilst the criterion of distance to markets/demand for construction materials was a principal factor used in the selection of the Cholsey sites (paragraph 19 of the Council's report to Cabinet of February 2011), it is not a criterion that was identified within the Council's preliminary site assessment table, and it would seem therefore was not applied to the assessment of all potential sites. Such an inconsistent approach brings into question the assessment process adopted and suggests a less than transparent procedure. As such it raises doubts about the independence as well as the reliability of what has been proposed.

59. The proposed Core Strategy is unsound, because the selection of a new area at Cholsey would be inconsistent with the proposed Minerals Planning Objective (vi) of minimising the distance minerals need to be transported.

Lack of Transparency in the Site Selection Process

60. Section 11.7 of CAGE's Submission of October 2011 provided an analysis of whether or not the potential South Oxfordshire sites were affected by the eight criteria used in OCC's preliminary site assessment table, together with five other factors. This exercise revealed that the Cholsey sites ranked amongst the sites that score the least favourably.

61. The Council's response to this analysis was that it: "does not accept the weighting that has been given to certain criteria in the consultant's assessment, which has resulted in different scoring." (Comment ref. 206).
62. The first comment that needs to be made is that the Council's response refers to CAGE's assessment resulting in different scoring, and this must mean different scoring from the Council's own scoring of the sites. However, as far as CAGE has been able to ascertain, there is no evidence that the Council has carried out such an exercise.
63. On 25 April 2012 CAGE asked the Council for copies of all evidence that was relied upon to come to the conclusion that "Cholsey is the most appropriate location for a new area for sand and gravel working" (as stated at paragraph 13 of the report to Cabinet of 13 March). On 30 April the Council provided the following documents:
- i. Revised version of the preliminary site assessment, including an assessment of groundwater vulnerability, as requested by the Environment Agency;
 - ii. The Sustainability Appraisal Report of the proposed Submission Document; and
 - iii. The landscape assessment of the Cholsey and Caversham areas.
64. CAGE then replied the same day to ask for confirmation that this comprised all the written evidence supporting the Council's assessment that Cholsey is the most appropriate location for a new site, and whether there were any other documents setting out why the site was chosen ahead of other potential sites, or for example any report regarding the recent development of a proposed housing site at Winterbrook (further to Examination of the South Oxfordshire Core Strategy). On 4 May 2012 the Council provided the following additional documents:
- i. Members' Mineral Working Group Papers of September 2010
 - ii. Members' Mineral Working Group Papers of January 2011

iii. Development of Minerals Planning Strategy, April 2012

65. None of these documents provides any evidence that the various potential sites in South Oxfordshire have been subject to any scoring process by the Council.
66. The other element of the Council's response to CAGE's assessment of the sites was that they did not accept the weighting that has been given to certain criteria.
67. CAGE, however, only gave any weighting to the criteria that the Council had itself identified as the most important and relevant for consideration at strategic assessment level in its own site selection methodology. In the case of the potential South Oxfordshire sites this only related to AONB and Historic Parks/Gardens, for which a weighting or score of two was given, in order to reflect the importance of these factors. Notably, the constraint of Historic Parks/Gardens was not included in the Council's site assessment table and is not relevant to the Cholsey sites, but added weight to the negative ranking of the Nuneham Courtenay site, in CAGE's assessment. For all other criteria, where the site was affected, a score of one was given.
68. Whilst it is not clear from the Council's response, its rejection of CAGE's assessment may also relate to the additional five factors/constraints, which CAGE considered were relevant to the site assessment (see CAGE Submission of October 2011 at Appendix 1). These criteria were as follows:
- i. Main rivers;
 - ii. Listed buildings;
 - iii. Rights of ways;
 - iv. Likely MOD objection to water areas; and
 - v. Important amenity feature/local issues.
69. CAGE believes that consideration of all of these criteria is very necessary when assessing site suitability. Nevertheless, a repeat of the exercise without the

additional factors, and without adding any weight to the AONB criterion, reveals that the Cholsey sites are still ranked amongst the sites that score the least favourably, as follows: The sites ranked in order of most preferable sites (positive scores given in brackets) are:

1. SG-59 Stadhampton (7)
2. SG-17 Culham (7)
3. SG-41 Lower Radley (7)
4. SG-42 Nuneham Courtenay (7)
5. SG-09 Drayton St Leonard (6)
6. SG-13 Shillingford (6)
7. SG-33 Cholsey (6)
8. SG-57 Cholsey (6)
9. SG-60 Wallingford (6)
10. SG-03 Benson (5)

The sites ranked in terms of negative impacts (negative scores given in brackets) are:

1. SG-59 Stadhampton (1)
2. SG-17 Culham (1)
3. SG-41 Lower Radley (1)
4. SG-42 Nuneham Courtenay (1)
5. SG-09 Drayton St Leonard (2)
6. SG-13 Shillingford (2)
7. SG-33 Cholsey (2)
8. SG-57 Cholsey (2)
9. SG-60 Wallingford (2)
10. SG-03 Benson (3)

70. In the light of this straightforward analysis, it is difficult to understand how the Council has arrived at the selection of Cholsey as “the most appropriate location for a new area for sand and gravel working”. Furthermore none of the documents

that have been provided to CAGE, in response to the question asking how this conclusion was reached, clearly and transparently provides the answer. (See Appendix 17)

71. There is, however, a further factor that adds weight to CAGE's concern about the site selection process. As stated earlier in this Representation, the Council's preliminary site assessment table was revised to include an assessment of groundwater vulnerability, as requested by the Environment Agency. The significance of the revision to the table has, however, only very recently become apparent from the Environment Agency's consultation response to the Draft Core Strategy of 31 October 2011, which CAGE has in the last few days received; that the Cholsey sites, SG-33, SG-57 and SG-60, have high groundwater vulnerability and are the only ones of the South Oxfordshire sites that are so identified. (See third bullet point on page 5 of the Environment Agency's letter at Appendix 24). This additional constraint confirms even more that the Cholsey sites score the least favourably of the potential South Oxfordshire sites.

72. In these circumstances the Council's finding in the table on page 28 of the background paper: Development of Minerals Planning Strategy that Cholsey has "few environmental constraints" is clearly not based on the evidence and is an unsound conclusion.

73. The proposed Submission Core Strategy is unsound, because the evidence base relating to the Council's site selection process is neither thorough nor transparent. In fact when assessed against the requirement that in order to be found sound the Plan has to be justified as the "most appropriate strategy", such a clear indication that the site has been incorrectly chosen is striking.

Inflexibility of the Strategy for South Oxfordshire

74. CAGE has submitted that a more flexible and robust approach than relying on just one new site specific area to replace Sutton Courtenay would be for a wider search area, and for policy M3 to refer to a new area or areas of working in South Oxfordshire to be identified through the site allocations document.
75. The Council has provided two responses in relation to this point, that: “Flexibility can be achieved through the choice of site options within each strategy area. The policy to refuse working outside of the identified areas will be monitored and if necessary reviewed to ensure that sufficient mineral supply can be provided.” (Comments ref. 93); and: ”The Council considers that only one new area is needed.” (Comment ref. 99).
76. CAGE considers, in light of the facts of the matter, as outlined above, that there is in reality only one site option within the Cholsey area to meet the required supply, that this response is inadequate, and that this demonstrates that the Council has not given appropriate attention to the issue.
77. It is a key requirement that development plan documents should provide certainty about the way a local area is to be planned and developed. For the Council to rely on reviewing their Strategy, as stated in their response, in the event that it is not flexible enough, does not inspire confidence that the Strategy has been devised on a robust evidence base.

Inability to work and reclaim the site within a reasonable timescale

78. CAGE submitted that the circumstances of the Cholsey sites would mean that they could not be worked and restored within a reasonable timescale. At the proposed extraction rate of 200,000 tonnes per annum, the mineral working could be expected to last about 25 years. Inert fill would have to be used for restoration for reasons outlined in Paragraph 84 but this could not be sourced and imported at

anywhere near that rate, and even given some potential overlap of the operations, the site(s) are likely to be operational well in excess of 50 years.

79. The Council has not responded to this comment.

80. CAGE is making an important point here, namely that the Cholsey site cannot be restored within a reasonable timescale. The objective of limiting harm to the environment and local amenity by ensuring that sites are reclaimed at the earliest opportunity has traditionally always been an important consideration of mineral planning authorities. However, it is now a formal requirement of the NPPF. The eighth bullet point of paragraph 143 stipulates that in preparing Local Plans policies should be put in place “.. to ensure worked land is reclaimed at the earliest opportunity, taking account of aviation safety,...”. In particular this has to apply to RAF Benson.

81. Part of the Vision for the proposed Strategy (paragraph 3.4 on page 21) is that mineral working “will be located and managed to minimise.... other harmful impacts of mineral extraction...” (in addition to the impacts of transportation). The inconsistency of the selection of the Cholsey sites with this stated aim of the Vision, is corroborated by the findings of the Council’s own Strategic Landscape Assessment of February 2012. The table at page 27 confirms that the Cholsey site would suffer either a “*large adverse impact*” (coloured red, i.e. the most serious) or “*moderate adverse impact*” (coloured orange, i.e. next most serious) for the duration of operations (see Appendix 22). The table indicates that there would be a neutral or slight beneficial effect during the restoration phase. However, this must mean post final restoration, because of the landfilling that is required for restoration, and this additional disruptive development must be considered part of the operational phase. Thus, the two most severe impacts would occur for a significant length of time – roughly two generations. Only after mineral extraction and landfill operations to restore the site had ceased, i.e. anything up to and even

beyond 50 years and therefore beyond the scope of the proposed Strategy, would the adverse effects upon Cholsey become minimal (coloured green in the table).

82. In addition it has now become apparent from the Environment Agency's consultation response to the Draft Core Strategy of 31 October 2011, which CAGE has only just seen, that the Cholsey sites have high groundwater vulnerability. This means that very great care would have to be taken with regard to the nature of the imported materials required for restoration purposes, to ensure that landfilling would not pose any risk to the water environment. Entirely clean and uncontaminated materials would have to be used, which would be even more difficult to source than materials that conventionally fit the characterisation of "inert", prolonging the length of the development even further.

83. The proposed Submission Core Strategy is unsound, because as currently drafted it would promote a site that would not be reclaimed until a very long time in the future (well beyond the period of the plan) contrary to NPPF guidance.

Aviation Safety Considerations

84. CAGE has made the representation that, in order to overcome an air safeguarding objection (because the site is in the flight path of RAF Benson), a volume in excess of 3 million tonnes (2 million cubic metres) of backfill materials would be needed to restore the Cholsey sites, at least to a level to ensure that there were no large areas of open water. As the sites are in the floodplain, there would be an Environment Agency objection to the use of any waste materials other than ones that are inert in nature, i.e. they would have to be naturally occurring soils and stones. The main source of such material would be central Oxfordshire, which would mean transporting large quantities of material over long distances.

85. The Council response to this point is: "Restoration could involve infill with imported material but it is not appropriate to specify the form of restoration in a broad strategy that does not identify specific areas for mineral working. Any

restoration proposals should accord with policy M7 and would need to recognise the proximity of the area to Cholsey and Wallingford, the AONBs and RAF Benson. Consultation with the MOD would be necessary.” (Comment ref. 202).

86. This response does not address the essential point of this representation, which is that the consequences, in terms of sustainability, of the form of restoration that will inevitably be needed, must be a factor in determining whether the site would be an appropriate one. For the Council not properly to consider these consequences of considerable volumes of material being transported long distances is inconsistent with proposed Waste Planning Objective iii, which aims to minimise the distance waste needs to be transported by road and reduce the adverse impacts of waste transportation on local communities and the environment. This is particularly pertinent, because there are other available sites where there would be no safeguarding objection, and selection of one or other of these alternatives could solve this internal inconsistency in the plan’s policies.

87. The proposed Submission Core Strategy is unsound, because the unsustainable consequences of the restoration that would be required for the new area at Cholsey have not been taken into account in the site selection process.

CONCLUSIONS

88. CAGE represents the informed and considered view of a significant proportion of the local community. It was formed by the local elected bodies and has been supported by large numbers of individuals. All connected with CAGE have been told of the proposals within the Plan through a number of public meetings, correspondence and through other means and have had the opportunity to comment on and amend this Representation. The Representation made therefore represents the concern of the local area to the inclusion of the Cholsey sites within the strategy. The appropriate remedy, and one which CAGE and its supporters would ask for, is the deletion of the Cholsey sites as being inappropriately

selected following an inadequate and limited selection process. The consequence of that deletion will be for the Council to consider in due course.

89. The issues raised by CAGE and relied on to support such a finding are significant in their own right and cover many matters. Most of these were raised with the Council through the original representations made in October 2011 and they are still relevant as no proper response has been received to them from the Council. There are in addition some new matters that have arisen as a result of closer analysis of what the Council has done.
90. In respect of the October 2011 representations, the Summary as set out in section 1 of that document still applies, and that provides a useful summary of the points being made and regard can be had to it, especially in respect of the Conflict with the individual policies set out in the Plan.
91. The points raised in this Representation carry the matter further. The assessment to be made now is for an examination to see if the Plan is legally compliant and sound, with the question of soundness being adjudged in the light of the tests as set out in the Framework.
92. To be upheld, the Plan must be found to be legally compliant, which requires an examination of the legal and procedural requirements along with meeting the Duty to Co-operate and also to be sound, which requires it to be Positively Prepared, Justified, Effective and Consistent with National Policy. There is an obvious overlap between the two elements but in the case of this Plan there are clear grounds for finding that it is defective.
93. It is defective in that there is no evidence to support any finding that the Duty to Co-operate has been followed or that the views of neighbours or others relevant to the Plan have been sought. That is compounded by the fact that the Council's guidance note (see paragraph 5.4) makes it clear that the Plan should be based on joint cross boundary strategic priorities.

94. It is defective in that the basis for selecting the Cholsey sites as future replacement sites has not been shown to be correct, appropriate or accurate. The quality of the material is such that it cannot conceivably meet that ambition, a point the Council continues to fail to address. In addition, given the real economic problems with the sites in the Cholsey area, there is no certainty of the delivery of them within the Plan period, in fact the contrary is true. The Council's reliance on the fact that operators support the allocation does not alter that position.
95. The Plan is patently not in compliance with National Policy as it does not comply with the various policies within the Framework identified within this Representation. No attempt has been made to meet the 12 Core Planning Principles applicable to the drafting process and thereafter to the decision processes, not least those concerned with the input of local views.
96. It is no answer to that to rely on a statement that such matters can be addressed at the time that sites come forward in circumstances, due to the existing identified constraints, where there is no flexibility on the site location itself. To select sites which are bound to fail when assessed against the proper application of the appropriate policy is to follow an erroneous selection process.
97. The Plan is defective in that it fails to provide a competitive approach. The requirement for a strong competitive economy is negated by the process underlying this Plan where the opposite is inevitable. Competition will be avoided by the inevitable concentration in the hands of limited numbers of operators. On the basis of the Council's published information this strategy will act to concentrate in excess of 50% of mineral supply in the hands of a single operator. That point has not been considered by the Council.
98. The Plan is inherently inflexible. In identifying a single new site, the approach is to concentrate the whole strategy on this basis and it does not therefore provide the certainty required.

99. The problem arises in part because of the wholly inadequate consultation process along with the Council's desire to claim that all detailed concerns can be dealt with at the detailed site allocation stage. Such a claim is fallacious in circumstances where the precision of the site arises directly from the selection process itself.
100. The consultation process was inadequate and only succeeded in lulling locals into believing that Cholsey was not being considered for extraction. The fact that it was being considered was only discovered subsequently by accident. The Environmental Assessment carried out was, in consequence, inadequate given the precision of the site selection process for Cholsey, and the whole approach remains tainted by the appearance of bias.
101. Sites examined were limited and those considered were put forward by landowners and or operators, where a clear interest in them going forward exists. Such a process is incapable of meeting the approach set out in the Framework where objective decisions based on sound evidence are said to be the appropriate way. That presumably explains why the site selection part of the background documentation was not even "partially" reviewed following the publication of the Framework. The tabular exercise using the scoring approach carried out by Ms Coyne, a minerals planning consultant, on behalf of CAGE proves the lack of transparency in the process and highlights the errors in the conclusions drawn. Any objective approach removes any possibility of the finding being made that Cholsey was the least environmentally damaging, which was the basis on which the sites were selected. It remains a mystery how such a statement could have been made if the facts are looked at objectively, either in respect of the location in isolation or on a comparative basis. Far from being the "least constrained" area, as the County Council maintains, Cholsey is in fact among the most constrained of the areas considered.
102. The selection of the Cholsey location is opposed by the guardians of the AONBs, which support the stance taken by CAGE, about the inevitable impact. The

Environment Agency has also raised concerns, which remain unanswered, and this severely questions the appropriateness of the selection of the Cholsey location.

103. The opposition to the selection of the Cholsey location based on its historical importance is growing. Other potential sites were rejected on the basis of their historical or archaeological importance but the Cholsey location did not receive an equivalent or consistent examination to allow a comparison to be made. CAGE has therefore had to undertake and commission additional work to fill that void and the indicative finding is that the historical interest is sufficient to reject this location. That finding should not come as a surprise given the well-known and identified historical interest known to exist in and around Wallingford and its outlying settlements. A learned monograph is currently being prepared by distinguished academics which underlines the national importance of Wallingford, and its setting, as a Saxon and medieval town.

104. As for other material matters, the distance to market consideration has been used inconsistently by the Council, causing doubt as to its relevance and weight to attach to it as a factor. There is however no clear benefit for the material found on the sites to be used to support such an argument given that it is poor when compared with other locations. As such the argument should carry very little, if any, weight given the indication in the Framework as to the need for clear evidence to support such matters.

105. The sites if worked are likely to remain in an operational state, including the inevitable restoration of the land, for a period well in excess of the Plan, likely to be 50 years. The Council does not seem to have taken that into consideration and it has not provided any information to cast doubt on that. Given the Environment Agency representations about land fill and the fear of contamination, that would support a view that it is likely to exist for that length of time.

106. Aviation safety remains a concern and, given the proximity of Benson airfield and the importance of it to the local area, the Council cannot avoid dealing with that concern.

107. The Plan is also unsound in failing to provide any basis on which the Tourist implications can be taken into account. In the immediate environs there exist many tourist and tourist related opportunities which will be affected: the Dame Agatha Christie Trail, the Thames Path, and the heritage railway to name but a few.

108. The failure to rationalise the position whereby heavy vehicles and other transport come into direct conflict with cyclists, in circumstances where the County Council intend to introduce a new cycle way, also introduces a basis for finding that the Plan is defective.

109. The Plan, as drafted, is not legally compliant and it is unsound for the reasons explained in this Representation.

110. CAGE reserves the right to introduce additional evidence and information if the need arises to respond to any new evidence produced by the Council. CAGE will produce to the Council the final form of any historical investigations once they are available.

Question 2(e)

All references to Cholsey must be removed.

Question 2(f) oral hearing. ticked

Question 2(g) – participation.

CAGE is the Representative body of the Organisations and individuals identified in this Representation. As such it is representing well over a thousand people all of whom are opposed to the inclusion of the Cholsey sites in the Plan. CAGE has played an active role throughout the process and has taken part in the consultation exercise, once it became aware of it, and has made detailed and comprehensive submissions to the Council and now in respect of this Representation. It has obtained specialist and expert assistance to help with that process and it has raised many issues going to the heart of the legal compliance and soundness of the plan. CAGE is likely to be the major objector to what is being proposed, it is seeking a change of fundamental proportions to the plan itself and as such it is most probable that the Inspector will be asked to permit questioning of the Council during the Examination. Such questioning is permitted under the guidance of the Inspector where it is helpful and aimed at ascertaining the facts relevant to the issues in hand. As such CAGE believes that it is essential for its representatives to take part in the hearing itself.